THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.9308 of 2007

Date 25-6-2007

Between:
The Principal Secretary to Government,
Department of Finance (W&P),
D Block, A.P. Secretariat, Hyderabad and others.

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PETITIONERS
AND

Sri C. Chinna Koteswara Rao,
Superintendent.

.....RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.9308 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The Department filed the present writ petition seeking a Writ of Certiorari to call for the records relating to and connected with the orders dated 29.11.2006 made in O.A. No.4957 of 2006, on the file of the A.P. Administrative Tribunal, Hyderabad and to quash the same.

The facts in brief are that the respondent herein was working as Superintendent in the office of Assistant Pay and Accounts Officer, Telugu Ganga Project, Nellore. While so, on 29.9.2003, the ACB officials conducted a surprise check and found some unaccounted cash with the petitioner and certain staff members. Thereafter, the Government issued memo instructing the Director of Works and Accounts to initiate disciplinary action against those who were found in possession of unaccounted cash of various amounts during the surprise check conducted by the ACB authorities on 29.9.2003. Thereafter, the Director of Works and Accounts, Hyderabad, vide memo dated 19.7.2005, appointed an enquiry officer to conduct enquiry into the matter. The enquiry officer, thereafter, submitted his report holding the charges as not proved. However, the disciplinary authority differed with the Enquiry Officer's report and issued memo dated 15.4.2006 calling upon the applicants to submit their explanations. Being dissatisfied with the explanation offered by the petitioner and some other applicants, the disciplinary authority imposed punishment of stoppage of two annual grade increments with cumulative effect against the petitioner

and certain others and 'censure' in respect of another delinquent. Aggrieved , the petitioner and others, filed O.A. Nos. 4954, 4956 and 4957 of 2006 before the Tribunal. The Tribunal, by the order impugned in this writ petition, allowed the O.As. while setting aside the punishment orders. Aggrieved by the judgment passed by the Tribunal in O.A. No. 4957 of 2006, the department filed the present writ petition.

Learned Government Pleader appearing on behalf of the Department contended that the Tribunal allowed the O.As. filed by the petitioner and others quite mechanically and on technicalities. He further submitted that the Tribunal erred in holding that the procedure contemplated under Rule 20(2)(4) and 5 of the A.P.C.S.(C.C.&A) Rules has not been followed and that there is discrimination in the matter of imposition of punishment. He, therefore, prayed that the writ petition be allowed and the impugned order be set aside.

Smt. Kalpana Ekbote, learned counsel appearing for the respondent on the other hand supported the impugned order and submitted that the same does not require any interference at the hands of this Court and prayed that the writ petition be dismissed.

Heard the learned counsel for the parties and perused the order of the Tribunal.

Admittedly, the procedure contemplated under Rule 20 of A.P.C.C.S Rules has not been followed by the Department before appointing the Enquiry Officer. Further, the disciplinary authority did not intimate the petitioner and others of the proposed enquiry, the substance of the imputations of the mis-conduct or mis-behaviour. He straight away appointed an enquiry officer to conduct enquiry into the matter. However, the enquiry officer after conducting enquiry into the matter, found that the charges levelled against the petitioner and others as not proved. So far as the petitioner herein is concerned, the enquiry officer observed in his report that the bills in the section to which the petitioner was in-charge were promptly disposed off and sent to cash section within the permissible time; that there were no allegations against him or the staff working under him.

The enquiry officer further found that the petitioner has offered justifiable reasons for possessing the amount of Rs. 6,100/- and accordingly submitted his report holding the charges framed against the petitioner as not proved. The disciplinary authority, having differed with the view taken by the enquiry officer, imposed the punishment of stoppage of two Annual grade increments with cumulative effect. The disciplinary authority has not been able to show any special reasons to differ with the view taken by the enquiry officer. Further, it is a case of collective mis-conduct and the charge is also substantially the same. When the disciplinary authority, in respect of the very same charge, exonerated one Mr. G Mastanvali, Assistant Pay and Accounts Officer, ought not to have taken a different view and imposed the punishment. The Tribunal, taking all these factors into consideration, rightly allowed the O.A. while setting aside the punishment imposed against the petitioner.

In the circumstances, we do not find any illegality or irregularity in the order of the Tribunal warranting interference. The writ petition fails and the same is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 25th June, 2007

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G. CHANDRAIAH,J

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